

RECEIVED
CENTRAL FAX CENTER

SEP 13 2006

REMARKS**A. Introduction**

Claims 1-21 were presented for examination.

Examiner objected to Claims 5-11 and 13-16.

Claims 1-21 were rejected.

Claims 1, 18, 20 and 21 were amended to place the application in condition for allowance or in better form for appeal.

Claims 3-17 were cancelled.

Claims 2 and 19 were previously cancelled.

B. Claims 1-21 Rejected Under 35 U.S.C. § 103

Examiner rejected Claims 1-3, and 17-21 under 35 U.S.C. § 103(a) as being unpatentable over KR 149428 to Lee (KR) in view of U.S. Patent No. 6,458,388 to Genis et al. (Genis) or Genis in view of KR. Examiner also rejected Claims 12-16 under 35 U.S.C. § 103(a) as being unpatentable over KR in view of Genis as applied to claims 1-3 and 17-21 in view of EP 1074245 (EP '245). Examiner further rejected Claims 4-11 under 35 U.S.C. 103 (a) as being unpatentable over KR in view of Genis, as applied to Claims 1-3 and 17-21 in view of U.S. Patent No. 5,997,889 to Durr et al (Durr). Examiner also objected to Claims 5-11 and 13-16 as improperly depending from a preceding claim. Finally, Examiner rejected Claims 1-21 under 35 U.S.C § 112, first paragraph, as failing to comply with the written description requirement (Page 8), by reciting the limitation "anhydrous," which Examiner contends constitutes new matter not support by the specification.

Applicant considered Examiner's rejections and objections and has amended certain claims and cancelled others accordingly. Specifically, Claims 1, 18, 20 and 21 were amended.

Additional, Claims 3-17 were cancelled. Finally, notwithstanding the specification clearly describing and supporting that no water is added during this process (and, thus, inherently anhydrous), to reduce issues remaining in this prosecution, Applicants eliminated the term "anhydrous" in all the remaining amended claims.

Examiner contends that the temperatures used in Genis for the general process of heating and cooling are "not significantly different" from the present invention. Applicant respectfully disagrees. Room temperature is said to be 25 ° C (Col. 4, line 7). Genis begins the process at 40° C, which is 15° C higher than room temperature. It is at this temperature that the salt solution is mixed with the water soluble ingredients. In contrast, the instant invention begins adding ingredients at room temperature and, once the temperature reaches 35° C, slow mixing occurs with beeswax, jojoba wax, PEG-120, cashew husk oil ethoxylate, and coconut oil. (Specification Page 17, lines 15-19). In Genis, the mixture is heated to 80° at which part the water and oil phases are mixed to form the emulsion. (Col. 5, lines 7-15). However, in the present invention, the heating and mixing occurs at 65° C (15° C less than taught in Genis), at which point, jojoba oil, soybean oil, olive oil, and Vitamin E oils are added (Specification, Page 17, line 20 - Page 18, line 1).

As is evident from this above example, over 14% more energy¹ is required to initialize the process in Genis. Further, at the maximum heating temperature, Genis requires over 23% more energy² than does the present invention. This additional heating requirement translates to more energy being required to be added to the process; Genis requires heating from room temperature to 80° C in order to form the emulsion, while the present invention requires heating

¹ $(40^{\circ}\text{C} - 35^{\circ}\text{C}) / 35^{\circ}\text{C} = 14.28\%$. Temperature change (ΔT) is directly proportional to a change in energy (ΔE). In other words, $\Delta T = k \Delta E$, where k is a constant. Thus, an increase in energy (E) of $X\%$ equals a corresponding increase in temperature (T) of $X\%$.

² $((80^{\circ}\text{C} - 65^{\circ}\text{C}) / 65^{\circ}\text{C} = 23.07\%$

from room temperature to 65° C. Resultantly, Genis requires 15° C more (or 37.5% more energy³) than the present invention to obtain a complete mixture. In other words, the Genis process consumes significantly more energy and, thus, is less desirable than the present invention in order to maintain the suspension characteristic.

Concerning the cooling aspect, the present invention also requires less energy because the composition is not heated as much. This makes for a more rapid cooling. In short, there is an economic disadvantage in conducting this process using the cited reference's method. The present invention can be performed with significantly less energy than the cited reference, drastically reducing costs of the process.

Any amendment that will place the application either in condition for allowance or in better form for appeal may be entered. See M.P.E.P. § 714.12. Amendments filed after a final rejection, but before or on the date of filing an appeal, complying with objections or requirements as to form are to be permitted after final action in accordance with 327 C.F.R. 1.116(b). See M.P.E.P. § 714.12. Finally, any amendment timely filed after a final rejection should be immediately considered to determine whether it places the application in condition for allowance or in better form for appeal. See M.P.E.P. § 714.13. Applicants respectfully submit that the amendments herein place the application in condition for allowance and respectfully request Examiner withdraw her rejections and objections thereto.

CONCLUSION

In view of the above, Applicants submit that Claims 1, 18, 20, and 21, as amended, are in condition for allowance. Applicants respectfully request reconsideration and withdrawal of the rejections and objections. Allowance of Claims 1, 18, 20, and 21 at an early date is solicited. If Examiner still finds impediments to allow Claims 1, 18, 20, and 21 and, in the opinion of the

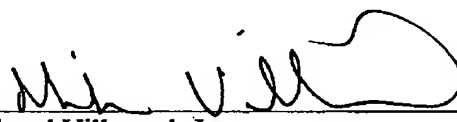
³ $((80^{\circ}\text{C} - 25^{\circ}\text{C}) - (65^{\circ}\text{C} - 25^{\circ}\text{C})) / (65^{\circ}\text{C} - 25^{\circ}\text{C}) = (55^{\circ}\text{C} - 40^{\circ}\text{C}) / 40^{\circ}\text{C} = 37.5\%$.

SEP 13 2006

Examiner, a telephone conference between the undersigned and Examiner would help remove such impediments, the undersigned respectfully requests such a telephone conference.

Respectfully submitted,

GUNN & LEE, P.C.
700 N. St. Mary's Street, Suite 1500
San Antonio, Texas 78205
(210) 886-9500 (Telephone)
(210) 886-9883 (Facsimile)

By: 
Miguel Villarreal, Jr.
Registration No. 55,700

SEP 13 2006

IN THE U.S. PATENT & TRADEMARK OFFICE

P-5435(DIV2)RCE

Atty: MLE/MVjr

Date Mailed: 06/05/2006

Applicant Name: Earth Salts International
Serial No: 10/601,795
Filing Date: June 23, 2003
Title: Ultra Fine Dead Sea Mineral Compound and Method of
Manufacture

The date stamp of the U.S. Patent and Trademark Office will acknowledge receipt of the **Response to Office Action of March 6, 2006 with Certificate of Mailing.**

